

JEANNETTE BELL
JUSTICE OF THE PEACE, PCT. #1
1700 7TH ST., ROOM 201
MATAGORDA COUNTY COURTHOUSE
BAY CITY, TEXAS 77414
PHONE (979) 244-7666
FAX (979) 244-7696

To the Citizens of Precinct #1:

Justice Court is here for your benefit and it is our job to help you in any way possible.

However, rules of Judicial Ethics prohibit this office:

From giving legal advice,
or expressing opinions of the law.

The Judge and Court Clerks can answer questions:

Only of a general nature,
about procedures of this court,
concerning court costs.

We must remain impartial, and we cannot hear any part of a case, or discuss the merits of any case, unless all parties are present.

PLEASE DO NOT ASK US TO VIOLATE THESE RULES.

The information contained herein is **FOR YOUR INFORMATION** and is offered as a guide, to all interested parties. As always, we recommend that you seek some form of sound legal advice.

Thank you,

Jeannette Bell
Justice of the Peace, Precinct #1
Matagorda County, Texas

INFORMATION FOR PLAINTIFF

1. It is your duty to provide correct address or location where service of the citation may be obtained by the Sheriff's Deputy or Constable.
2. When you are filing Small Claims or Justice Civil Suits, you are only making an allegation that you should recover from the Defendant.
3. You should assume at the time you file, that the Defendant will contest your allegation.
4. You should properly prepare your case for trial.
5. You should remember that hearsay evidence is not admissible and cannot be used if objected by the Defendant. Examples of hearsay evidence are affidavits, garage estimates, police reports and what other people orally said.
6. If witnesses are required, you may subpoena them to court by asking for the subpoena and paying the required fee (\$60.00). The subpoena should be requested at least one week before the trial.
7. After you present your case at the trial as to your right to recover, the Defendant then presents his defense to your claim and explains why you should not recover.
8. After both Plaintiff and Defendant have rested their case, the Court will enter a judgment that the Plaintiff recovers from the Defendant, ALL, PART or NONE.
9. If you recover a judgment, the Defendant has ten days (10) in which to appeal the case to County Court.
10. Should the Court rule that you recover nothing, you must appeal the ruling to County Court within ten days (10) from the date the judgment is signed, or your right to recover is forever lost.
11. If the Defendant does not appeal within ten days (10), the judgment is final.
12. If you obtain a final judgment, you may request an Abstract of Judgment, Writ of Execution or Garnishment as after-judgment remedies.
13. An Abstract of Judgment can be obtained after ten days from date of judgment, then file in the County Clerk's Office where Defendant lives.
14. A Writ of Execution can be issued after thirty (30) days from date of Judgment.
15. A Writ of Garnishment Suit can be requested either at the commencement of a suit or at any time during its progress.
(For this type of suit, an attorney would be required)

FILING A JUSTICE COURT SUIT

VENUE:

Generally, suit should be filed in the County and Precinct where one or more defendants reside. However, there are many exceptions to this rule. For further information, see Exceptions to Venue in Justice Court Suits.

REQUISITES:

Prior to filing a suit direct a letter, Certified Mail, Return Receipt Requested to defendant, giving notice of suit. State the amount of money to be sued for, and if the money is not received by the date you give in the letter, suit may be filed. This is not a required law. This is a good tool to obtain a good and correct address of the defendant.

JURISDICTION:

Jurisdiction, (what the Court may render judgment for) in Justice Court Suits is for civil matters in which the amount of controversy is not more than \$10,000.00, exclusive of interest. Justice Court also has jurisdiction over suits for foreclosure of mortgages and enforcement of liens on personal property suits for foreclosure of mortgages and enforcement of liens on personal property where the amount of controversy is not more than \$10,000.00, exclusive of interest.

FILING SUIT:

The responsibility for filling out your petition rests with you, the Plaintiff. Court Clerks will assist you if you have procedural questions. The filing fee is \$31.00 plus \$60.00 service fee (Matagorda County). Total: \$91.00 in Matagorda County. If you are filing on a defendant outside of Matagorda County, call the Sheriff's Office in that particular county and get their service fee, address and phone number. Ask for the Civil Division. If you are filing on a business we will need an AGENT FOR SERVICE (person who can be served at the business)

CITATION:

A citation is sent to the Sheriff or Constable for service on the defendant in Matagorda County. Out of county service is sent to the Sheriff's Office in that particular county.

ANSWER:

The defendant(s) in your suit is commanded to answer to the Court in writing or in person, on Monday following the expiration of 10 days from the date the citation was served upon said defendant.

REPRESENTATION:

As an individual, you may represent yourself in Justice Court if you wish to do so. Corporations must be represented by an attorney. The Rules of Evidence and Rules of Civil Procedure are in effect in Justice Court.

DEFAULT JUDGMENTS:

If the defendant in your suit fails to file a written answer with the Court, only you, as Plaintiff, will be notified by the Court for an appearance on the Default Docket. You will be asked to briefly state the facts of your case and present any written documents you may have to support your case.

TRIAL BY JUDGE OR BY JURY:

If the defendant in your suit files an answer, the court date should be approximately four weeks after service. A notice stating the date and time of the trial will be mailed to you, the Plaintiff and also to the Defendant. Bring all the information you will need to support your claim. If you have any witnesses you should bring them with you.

ALL MOTIONS FOR CONTINUANCE OF COURT DATE MUST BE IN WRITING AND RECEIVED NO LATER THAN THREE WORKING DAYS (WEEKENDS AND HOLIDAYS EXCLUDED) PRIOR TO YOUR COURT DATE.

AFTER JUDGMENT:

If you receive a Judgment against the Defendant, and if the Defendant does not make a motion for a new trial within 5 days Or appeal the case within 10 days after the court trial, then your remedies to collect your money are as follows:

ABSTRACT OF JUDGMENT:

You may obtain an Abstract of Judgment on the 11th day after judgment, if the judgment has not been appealed or a new trial has been requested. The fee for obtaining an Abstract of Judgment is \$5.00, payable to JP #1, Matagorda County. Take the Abstract to the County Clerk's Office in Bay City, Texas, if the Defendant lives in Matagorda County, or mail it to the County Clerk's Office in whatever county the defendant lives. The purpose of filing this Abstract of Judgment is that when filed, it will put a lien against any real property in the Defendant's name. This Abstract of Judgment can be renewed every 10 years, but a Writ of Execution MUST be requested before in order to renew it. If the ten years go by and nothing is done in the case, it will become dormant.

WRIT OF EXECUTION:

If you are granted a judgment against the Defendant, AND, if the Defendant does not appeal within 10 days after the court date, you may request a Writ of Execution after 30 days from the date of judgment. This Writ allows any Sheriff or Constable in the State of Texas to seize non-exempt property belonging to the Defendant. If property is seized, an auction is held and the proceeds from the sale will satisfy the judgment. The cost for a Writ of Execution in Matagorda County is \$105.00

There are other remedies available, but they are complicated and you might need an attorney.

THIS COURT DOES NOT COLLECT THE JUDGMENT FOR YOU, NOR CAN WE FORCE THE DEFENDANT TO PAY THE JUDGMENT!

Please understand that as Plaintiff, you have the burden of proof to show by the weight and evidence that the Defendant you are suing is the proximate cause of your damages in the capacity which the Defendant is being sued. All damages and evidence necessary to meet your burden should all be available at the time of filing and not later than the date of the trial.

IT IS IMPERATIVE THAT YOU PROVIDE US WITH YOUR DAYTIME TELEPHONE NUMBER.

JEANNETTE BELL
Justice of the Peace, Precinct #1
Matagorda County, Texas
1700 Seventh Street, Room 201
Bay City, Texas 77414-5034
(979) 244 7666

CAUSE NO. _____

**Your Legal Name/Capacity You Are Suing
The Defendant** _____

IN THE JUSTICE COURT

VS.

PRECINCT #1

**Defendant's Legal Name or Individual
Assumed Name or Corporation's Name
and Agent for Service** _____
Defendant

MATAGORDA COUNTY, TEXAS

AFFIDAVIT OF CLAIMANT

THE STATE OF TEXAS
COUNTY OF MATAGORDA

Plaintiff's Name Exactly as Above _____, whose post office
address is _____

Complete Address and Phone # _____, **City** _____, **Name of County** _____

County, Texas, being duly sworn, on his oath deposes and says that _____

Defendant's Name as Above _____ whose post office address is _____

Address and Phone # _____, **City** _____

_____, **Name of County** _____ County, Texas, justly

indebted to him in the sum of \$ **(Cannot Exceed \$10,000.00)**, for _____

Give Full Description of the Cause of Action (act causing act or damage) _____

Defendant Must be Totally Aware of Why He or She is Being Sued. State the _____

Nature of the Claim in Concise Form Without Technicality, Including all Pertinent _____

Dates _____ there are no counter claims existing in favor of the

defendant and against the plaintiff except _____

**Sign Your Name before the Clerk
Or a Notary Public** _____
Plaintiff

SUBSCRIBED AND SWORN TO be before me this _____ day of _____, 2010.

**NOTARY/COURT CLERK/JUSTICE OF THE PEACE
PCT. 1, MATAGORDA COUNTY, TEXAS**

CAUSE NO. _____

IN THE JUSTICE COURT

VS.

PRECINCT #1

MATAGORDA COUNTY, TEXAS

AFFIDAVIT OF CLAIMANT

THE STATE OF TEXAS
COUNTY OF MATAGORDA

_____, whose post office address is _____,

_____ Phone Number# _____

_____ County, Texas, being duly sworn, on his oath deposes and says that

_____ whose post office address is _____

_____ Phone Number# _____,

County, Texas, justly indebted to him in the sum of \$ _____ for _____

Plus Plaintiff also sues for all court cost and any attorney fees incurred.

and there are no counter claims existing in favor of the defendant and against the plaintiff except

_____.

Plaintiff

SUBSCRIBED AND SWORN TO be before me this _____ day of _____, 2010.

**NOTARY/COURT CLERK/JUSTICE OF THE PEACE
PCT. 1, MATAGORDA COUNTY, TEXAS**

CAUSE # _____

VS. IN THE _____ COURT
PRECINCT ONE

MATAGORDA COUNTY, TEXAS

MOTION AND ORDER FOR SERVICE UNDER RULE "536"

NOW COMES _____, Plaintiff
in the above entitled and numbered cause and says that in this cause, it is impractical
to secure personal service upon this Defendant, because of the irregularity of the
schedule of said Defendant, there is no way for Deputy or Constable to determine such
times in order to be able to serve Defendant personally.

Plaintiff hereby petitions the Court that service on Defendant be obtained by
delivering a copy of the citation to anyone over the age of 16 years at Defendant's
usual place of abode at _____

OR Defendant's place of business at _____

OR in any other manner which will be reasonably effective to give the Defendant notice
of this suit.

Signed this _____ day of _____, 2010.

Plaintiff

ORDER

**MOTION GRANTED this _____ day of _____, 2010, and
SUBSTITUTED SERVICE OF CITATION SO AUTHORIZED AND ORDERED.**

NOTARY/COURT CLERK/JUSTICE OF THE PEACE
PCT. 1, MATAGORDA COUNTY, TEXAS

CAUSE NO. _____

_____, Plaintiff

In the _____ Court

vs.

Pct. 1

_____ ET AL, Defendant

Matagorda County, Texas

NON - MILITARY AFFIDAVIT

STATE OF TEXAS

COUNTY OF MATAGORDA

BEFORE ME, the undersigned authority, on this day personally appeared the undersigned affiant, who, being by me duly sworn, on oath stated:

"I am the Plaintiff / attorney for plaintiff in the above –entitled and numbered cause. I am capable to making this affidavit. The facts stated in this affidavit are within my personal knowledge and are true and correct.

_____, Defendant, is not in the military. (check military status at <https://www.dmdc.osd.mil/appj/scra/scraHome.do>)

Plaintiff

Signed and sworn to this the ___ day of _____, 2010.

Notary Public
Exp. Comm. _____

Or

Notary/Court Clerk/Justice of the Peace, Pct. 1
Matagorda County, Texas